

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TRAVIS JUSTIN CUELLAR,

Plaintiff,

v.

FRESNO COUNTY SHERIFF, et al.,

Defendants.

No. 1:20-cv-00707-DAD-SAB (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DENYING
PLAINTIFF'S MOTION FOR ENTRY OF
DEFAULT

(Doc. Nos. 14, 21)

Plaintiff Travis Justin Cuellar is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

This action proceeds on plaintiff's first amended complaint, in which plaintiff asserts claims against defendants Bruton and Cisneros for excessive use of force in violation of the Fourteenth Amendment of the United States Constitution. (Doc. No. 7.)

On December 10, 2020, plaintiff filed a motion for entry of default against defendants. (Doc. No. 14.) On March 4, 2021, the assigned magistrate judge issued findings and recommendations recommending that plaintiff's pending motion for entry of default be denied because defendants have since appeared in this action, have shown good cause for their delayed appearance, and have attested to their intent to defend themselves against plaintiff's claims. (Doc. No. 21.) In addition, the findings and recommendations recommend that the court grant a

1 45-day extension of time for defendants to respond to plaintiff's first amended complaint. (*Id.* at
2 3-4.) Those pending findings and recommendations were served on the parties and contained
3 notice that any objections thereto were to be filed within fourteen (14) days after service. (*Id.*)
4 To date, no objections to the pending findings and recommendations have been filed, and the time
5 in which to do so has now passed.

6 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
7 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the
8 findings and recommendations are supported by the record and by proper analysis.

9 Accordingly,

- 10 1. The findings and recommendations issued on March 4, 2021 (Doc No. 21) are
11 adopted in full;
- 12 2. Plaintiff's motion for entry of default (Doc. No. 14) is denied;
- 13 3. Defendants shall file and serve a response to plaintiff's first amended complaint
14 within forty-five (45) days from the date of service of this order; and
- 15 4. This action is referred back to the assigned magistrate judge for further
16 proceedings consistent with this order.

17 IT IS SO ORDERED.

18 Dated: April 2, 2021

19 
UNITED STATES DISTRICT JUDGE